**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE K.M.JOSEPH**

**MONDAY, THE 12TH FEBRUARY 2007 / 23RD MAGHA 1928**

**WP(C).No. 12852 of 2006(E)**

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**PETITIONERS:**

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1. **V.JOHN VARGHESE,**
   **PLANT OPERATOR GR-I, KOLLAM DAIRY,**
   **THEVALLI P.O.**

2. **A.DIVAKARAN NAIR,**
   **TECHNICIAN SPECIAL GRADE,**
   **THIRUVANANTHAPURAM DAIRY,**
   **AMBALATHARA, THIRUVANANTHAPURAM.**

3. **B.VISWAKUMAR, DRIVER SPECIAL GRADE,**
   **THIRUVANANTHAPURAM DAIRY,**
   **POONTHURA P.O., AMBALATHARA, THIRUVANANTHAPURAM.**

4. **G.RAVINDRAN, SPECIAL GRADE TECHNICIAN,**
   **THIRUVANANTHAPURAM DAIRY, POONTHURA P.O.,**
   **AMBALATHARA, THIRUVANANTHAPURAM.**

5. **K.CHELLAMMA,**
   **JUNIOR SUPERINTENDENT HIGHER GRADE,**
   **KOLLAM DAIRY, THEVALLI P.O.**

6. **ABDUL KARIM, SPECIAL GRADE DRIVER,**
   **KOLLAM DAIRY, THEVALLI P.O.**

7. **N.SASIDHARAN, PLANT OPERATOR,**
   **KOLLAM DAIRY, THEVALLI P.O.**

* 8. **P.J.JOY, SENIOR GRADE ATTENDER,**
   **KOLLAM DAIRY, THEVALLI P.O.**

***P8 REMOVED FROM PARTY ARRAY AS PER ORDER DTD. 11/08/2006 IN I.A.NO.10012/2006.**

**...2/-**

9. K.VASUKUTTAN NAIR,
VETERINARY ATTENDER/PLANT ATTENDER,
MILK CHILLING PLANT, PATHANAMTHITTA.

10. S.JOHN, PLANT ATTENDER SENIOR GRADE,
THIRUVANANTHAPURAM DAIRY, POONTHURA P.O.,
AMBALATHARA, THIRUVANANTHAPURAM.

BY ADV. SRI.ELVIN PETER P.J.

RESPONDENTS:
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1. STATE OF KERALA, REP. BY
ITS SECRETARY, AGRICULTURE AND DAIRY DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DIRECTOR OF DAIRY DEPARTMENT,
OFFICE OF THE DIRECTOR OF DAIRY DEVELOPMENT,
PATTOM, THIRUVANANTHAPURAM.

3. THE KERALA LIVESTOCK DEVELOPMENT BOARD,
REPRESENTED BY ITS MANAGING DIRECTOR,
PATTOM, THIRUVANANTHAPURAM.

4. THE KERALA CO-OPERATIVE MILK MARKETING
FEDERATION LTD., REP. BY ITS MANAGING DIRECTOR,
MILMA BHAVAN, PATTOM, THIRUVANANTHAPURAM.

5. THE CHAIRMAN,
KERALA CO-OPERATIVE MILK MARKETING FEDERATION
LTD., MILMA BHAVAN, PATTOM, THIRUVANANTHAPURAM.

*ADDL.R6 IS IMPLEADED:

R6. THIRUVANANTHAPURAM REGIONAL CO-OPERATIVE MILK
PRODUCER'S UNION LTD., REPRESENTED BY ITS
MANAGING DIRECTOR, KSHEERA BHAVAN, PATTOM,
THIRUVANANTHAPURAM – 695 004.

(ADDL.R6 IS IMPLEADED AS PER ORDER DTD. 12/02/2007 IN
I.A.NO.8550/2006)

BY ADV. SRI.B.S.KRISHNAN(SR.), SC, MILMA
SRI.K.ANAND (A.201) for R2 & R4
SMT.LATHA KRISHNAN
SMT.SUMATHY DANDAPANI
BY GOVT.PLEADER SRI. T.T. MUHAMMED

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 12/02/2007 ALONG WITH WPC NO. 25036 OF 2006 AND
WPC NO. 23189 OF 2006, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

## APPENDIX

**PETITIONER'S EXHIBITS:**

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| **EXT.P1:** | **COPY OF THE ORDER DTD. 17/02/1967 OF THE GOVERNMENT.** |
| **EXT.P2:** | **COPY OF THE ORDER DTD. 4/06/1968 OF THE GOVERNMENT.** |
| **EXT.P3:** | **COPY OF THE ORDER DTD. 2/09/1968 OF THE GOVERNMENT.** |
| **EXT.P4;** | **COPY OF THE ORDER DTD. 17/04/1967 OF THE GOVERNMENT.** |
| **EXT.P5:** | **COPY OF THE ORDER DTD. 28/07/1970 OF THE GOVERNMENT.** |
| **EXT.P6:** | **COPY OF THE ORDER DTD. 24/08/1977 OF THE GOVERNMENT.** |
| **EXT.P7:** | **COPY OF THE ORDER DTD. 25/09/1984 OF THE CERTIFYING OFFICER (JOINT LABOUR COMMISSIONER (PLANNING) UNDER THE INDUSTRIAL EMPLOYMENT (STANDING ORDERS) ACT 1946.** |
| **EXT.P8:** | **COPY OF THE NOTICE DTD. 4/09/2004 ISSUED BY THE GENERAL MANAGER OF KCMMF LTD.** |
| **EXT.P9:** | **COPY OF THE PROVISIONAL SENIORITY LIST OF THE EMPLOYEES WORKING IN THE KCMMF LTD.** |
| **EXT.P10:** | **COPY OF THE REPLY DTD. 5/03/2001 SENT BY THE KCMMF LTD.** |
| **EXT.P11:** | **COPY OF THE REPRESENTATION DTD. 15/02/2006 SUBMITTED BY THE MILMA WORKERS UNION TO THE 5TH RESPONDENT.** |
| **EXT.P12:** | **COPY OF THE COMMUNICATION DTD. 13/04/2006 SENT BY THE 5TH RESPONDENT.** |
| **EXT.P13:** | **COPY OF THE MEMO DTD. 8/04/2006 SENT BY THE GENERAL MANAGER, THIRUVANANTHAPURAM DAIRY.** |
| **EXT.P14:** | **COPY OF THE JUDGMENT DTD. 19/10/2000 IN O.P.NO.10566 OF 1999.** |
| **EXT.P15:** | **COPY OF THE JUDGMENT DTD. 7/06/2001 IN O.P.NO.16983 OF 2001.** |
| **EXT.P16:** | **COPY OF ORDER G.O.(MS) NO.157/2004/AD. DTGD. 27/07/2004.** |
| **EXT.P17:** | **COPY OF MEMORANDUM OF SETTLEMENT DTD. 12/08/2004.** |
| **EXT.P18:** | **COPY OF COMMUNICATION DTD. 13/04/2006 ISSUED BY THE 4TH RESPONDENT.** |
| **EXT.P19:** | **COPY OF STATEMENT OF FIXATION OF PAY OF THE 2ND PETITIONER.** |

**..2/-**

EXT.P20: COPY OF ORDER DTD. 25/02/83 OF THE MANAGER, MILK CHILLING CENTRE, YEROOR.

EXT.P21: COPY OF ORDER DTD. 25/08/83 ISSUED BY THE MANAGER, TRIVANDRUM DAIRY, OF THE 4TH RESPONDENT.

EXT.P22: COPY OF ORDER DTD. 23/07/1984 ISSUED BY THE 4TH RESPONDENT.

EXT.P23: COPY OF ORDER DTD. 16/01/86 ISSUED BY THE 4TH RESPONDENT.

EXT.P24: COPY OF ORDER DTD. 2/07/84 ISSUED BY THE 4TH RESPONDENT.

EXT.P25: COPY OF THE SERVICE BOOK OF THE 3RD PETITIONER.

EXT.P26: COPY OF THE SERVICE BOOK OF THE 10TH PETITIONER.

4TH RESPONDENT'S EXHIBITS:

EXT.R4(A): COPY OF THE BYE-LAWS OF THE 4TH RESPONDENT.

EXT.R4(B): COPY OF THE BYE-LAWS OF TRCMPU.

EXT.R4(C): COPY OF THE STANDING ORDERS OF TRCMPU.

EXT.R4(D): COPY OF THE UNDERTAKING OF THE UNIONS SPECIFICALLY AGREED THAT THEY WILL NOT BE CLAIM THE BENEFIT OF THE AGE OF SUPER ANNUATION OF 60 YEARS.

/TRUE COPY/

Kss

**K. M. JOSEPH, J.**

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**W.P.C. NOS. 12852/06M E,**

**23189/06 I & 25036/06 E**

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**Dated this the 12th February, 2007**

**JUDGMENT**

These Writ Petitions raise common issues and hence they are disposed of by a common Judgment. I shall refer to the facts in W.P.(C) No.12852/06 as the leading case. Case of the petitioners, in brief, is as follows:

The procurement of milk and its processing was originally undertaken by the Thiruvananthapuram District Co-operative Milk Supply Union Ltd. No.2989, a registered Society under the Co-operative Societies Act. The Society, apparently, failed to discharge an obligation stipulated by Government Order dated 23.6.1961 under which it was entrusted with the Plant and other accessories. Accordingly, it was taken over by the Government for the violation of the obligation. It was done by Ext.P1 G.O. dated 17.2.1967. Thereafter, on the basis of the proposal submitted by the Registrar of Co-operative Societies, the Union

was permitted to revive its activities which was taken over by Ext.P1 (Ext.P2). Still further, it is pointed out that after the issuance of Ext.P1 order, sanctioning the scale of pay, etc. of the Thiruvananthapuram Dairy taken over by the Dairy Development Department was done by Ext.P3. Various posts were sanctioned and various scales of pay were also sanctioned. The Employees' Union came to be thrown out of service. Thereafter, Government issued Ext.P4 order by which the employees of the Union were permitted to be appointed. Ext.P5 is an order by which different posts required for the Milk Chilling Plant and their scales of pay were sanctioned by Government. It is the case of petitioners that the first petitioner was appointed as Plant/Van Attender in the Plant at Thenmala on 28.7.1970. Third petitioner was appointed as Vehicle Cleaner in 1974 in Thiruvananthapuram. The sixth petitioner was appointed in 1978 as Attender in Alappuzha Dairy. In 1976, Government established the Kerala Livestock Development & Milk Marketing Board (hereinafter referred to

as the Board). Thereafter, the operations were transferred to the said Board. Second petitioner was appointed in 1979 as Refrigeration Mechanic in Thiruvananthapuram Dairy. The other petitioners were all appointed after 1976, after establishment of the Board. Petitioners were working under the Board. While so, the Government established the Kerala Co-Operative Milk Marketing Federation Ltd. (hereinafter referred to as the Federation). It is stated to be an autonomous body with twelve Directors, and the Government exercise deep and perverse control over the administration and all other activities of the Federation and it is alleged that it is an Authority under Article 12 of the Constitution of India. Ext.P6 is the Government Order dated 24.8.1977 directing that the employees of the Board shall retire on completion of sixty years. Petitioners are, therefore, entitled to continue till sixty years. Ext.P7 is an order dated 25.9.1984 issued by the Certifying Officer under the Industrial Employment Standing Orders Act. Clause 27 reads as follows:

> *"27. Retirement:*
>
> *Every workman shall retire from service on the completion of his 58th year of age unless extended by the management in its absolute discretion."*

It is stated that the fixation of the age of retirement of the employees of Federation as 58 years is absolutely illegal and violative of Article 14 of the Constitution. Their further case is one of discrimination. It is stated that several employees were permitted to retire at the age of sixty. Ext.P8 is a notice of retirement issued to one Shri M. John retiring at the age of Sixty. Ext.P9 is a provisional seniority list relied on by petitioners. Representation was made by petitioners to allow them to continue till the age of sixty or in the alternative, to grant pensionary benefits. The reply given was Ext.P10. Ext.P10 was issued by fifth respondent. Fifth respondent is the Chairman of the Federation. Ext.P11 is a representation to which Ext.P12

reply was given by fifth respondent. In Ext.P12, the petitioners were asked to take up the matter before the Government. Ext.P14 is the Judgment of this Court allowing the claim of the employee to continue in service till he completes the age of sixty. On these allegations, the, the petitioners seek the following reliefs:

> *"(a) Issue a writ of mandamus or other appropriate writ, order or direction directing the respondents to allow the petitioners to continue in service till they complete the age of 60 years.*
>
> *(b) Declare that the petitioners who were absorbed in KCMMF Ltd. from KLD & MMB and the former employees in the Milk Supply Union who were absorbed in the KCMMF Ltd. are similarly situated and the action of the 3rd respondent in allowing the former employees of the Milk Supply Union who are now working under the KCMMF Ltd. alone should continue in service till the attainment of the age of 60 years, is discriminatory.*

*(c) Declare that the petitioners are entitled to continue in service of the KCMMF Ltd. till they attain the age of 60 years."*

2. A Statement is filed and still further, a Counter Affidavit is filed on behalf of fourth respondent. Therein, it is inter alia, stated that as part of the implementation of the Operation Flood Programme, a three tier system was introduced in the State of Kerala with regard to procurement and marketing and sale of milk and milk products. The Federation became the Apex level Co-operative Society (fourth respondent). It is a Society under the Act. At the middle level, three Regional Units were formed, namely Malabar Regional Co-Op. Milk Producers' Union, Ernakulam Regional Co-Op. Milk Producers' Union and Trivandrum Regional Co-Op. Milk Producers' Union (hereinafter referred to as the Regional Union). All the three Unions are separately registered under the Co-Operative Societies Act. Thereafter, at the root level, there are primary

level Co-operative Societies, through which procurement of milk is effected. This is following the Anand pattern introduced in the State of Gujarat. It is stated that the Federation and Unions are separate Societies and they have their own byelaws. Ext.R4(a) is the byelaws of fourth respondent Federation. Petitioners are not employees of fourth respondent. They are employees of the Union. Ext.R4(b) is the byelaws of the said Union. Ext.R4(c) is produced as Standing Orders of the Union and it is stated that the Writ Petition is bad for non-joinder of necessary parties. The Writ Petitions were alleged to be highly belated. It is stated that after the take over of the Thiruvananthapuram Union as per G.O. dated 17.2.1967 following the settlement, it was agreed that in lieu of the service rendered by the employees in the said Union, those employees were permitted to continue till the age of sixty years. It is stated that even for the purpose of Gratuity, the period they served was not counted at all. It is on that basis that they were permitted to continue till the age of sixty years. Ext.R4(d) is produced as a

copy of the Undertaking. Ext.P8 is stated to be issued by the Thiruvananthapuram Dairy coming under the Union and it is stated that none of the employees those who are employees of the Union are allowed to continue till the age of sixty. Reliance is placed on the provisions of the Co-operative Societies Act and it is stated that the employee shall retire as per the said Act at the age of fiftyeight.

3. A Reply Affidavit is filed by petitioners. Therein, the petitioners have produced Exts.P16 to P26. It is stated that the three Unions mentioned by fourth respondent in the Counter Affidavit were established by the Federation and they got it registered under the Co-Operative Societies Act. It is further stated that the petitioners were employees of the Federation after they were transferred to the Unions. It is their case that, therefore, they will not become employees of the Union. Ext.P16 is issued by Government on 27.7.2004. It, inter alia, provides that the Government are pleased to approve the revision of pay scales and allowances to the employees under

Managerial Cadre in the Federation and the Unions. Ext.P17 is a Memorandum of Settlement executed between the Federation and the trade Unions and Regional Unions in regard to bonus. By Ext.P18, the fourth respondent has stated that the Authority to decide the age of retirement of the Employees of the Unions is the Government and it has to be taken in the level of the Federation. Ext.P19 is a fixation of pay of second petitioner issued by fourth respondent. It was issued in the year 1986. Fifth petitioner was originally appointed through Employment Exchange by Ext.P20 order dated 25.2.1983. Thereafter, fifth petitioner approached this Court and this Court stayed termination and the Manager of the Thiruvananthapuram Dairy of fourth respondent issued Ext.P21. Further, by Ext.P22 dated 23.7.1984, the employees who were provisionally appointed in the Board and who were subsequently absorbed in the Federation were regularised in the fourth respondent. Ext.P23 is produced to show that the 7th petitioner was transferred and posted to the Milk Chilling Plant at Karunagappally by the

fourth respondent. Ext.P24 evidences sanction of increment of 7th petitioner by order dated 2.7.1984. Ext.P25 evidences opening of Service Book of third petitioner after his appointment in the Board. It is stated that Service Book was maintained by Officers of fourth respondent after absorption by fourth respondent. Ext.P26 is a copy of the Service Book of 10th petitioner.

4. Shri Elvin Peter, learned counsel appearing for the petitioners would submit that having regard to the facts, petitioners must be treated as employees of fourth respondent Federation. He would submit that the fourth respondent is a Body which is controlled by the Government and it is stated under Article 12 of the Constitution of India. He would say that Ext.P7 would show that after the employees were taken over by the Federation, the Certifying Officer has certified the Standing Order wherein as per Clause 27, the retirement age is fiftyeight and though it can be extended in the absolute discretion of the management, there is nothing like absolute discretion and

discretion should be exercised reasonably. He would further contend that the workers working in the Federation become fused into one category and it is stated that in view of the extension of service given beyond fiftyeight years to sixty years in favour of the employees of the Thiruvananthapuram Union, the benefit should be extended to petitioners also. There is clear discrimination, it is contended, between equals. It is stated that there is no settlement as such and it is at best can be an understanding. Apparently, answering the contentions based on Rule 183 of the Co-Operative Societies Rules, a question is posed by learned counsel for petitioners that if such a Rule is applicable, how the employees could be divided into two categories and the Rule could be held inapplicable to the Employees' Co-operative Society who were drawn from the Union ? He would, therefore, submit that the same treatment should be given to the petitioners.

5. Learned counsel for the Federation who also appears for the Union reiterates his averments in the Counter Affidavit.

He would say that it is only on account of the special circumstances, namely that the employees of the Thiruvananthapuram Union came to be absorbed on the basis of the understanding of foregoing their entire past service in the Thiruvananthapuram Union, they were allowed to remain in service till sixty years of age and the petitioners cannot claim parity with those employees. He would contend that, at any rate, it is not open to the petitioners who are employees of the Co-operative Society to demand this Court that they be allowed to remain in service for a period beyond fiftyeight years. Such an argument is in the teeth of the statutory prohibition contained in Rule 183, he contends. He would also rely on the Exts.R4(a) to R4(c).

6. The first question to be considered is whether there is any discrimination practised against the petitioners, vis-a-vis, those workmen who were allowed to continue till the age of sixty years. It is to be noted in this regard that the petitioners have produced Ext.P14 which is a Judgment of this Court in

which the Counter Affidavit of the Federation is extracted. It reads as follows:

> *".....an understanding has been raised between the trade unions and the management of the erstwhile Kerala Livestock Development and Milk Marketing Board to the effect that those employees who were in the service of the Trivandrum District Milk Union will be given the benefit of continuance in service till the age of 60 years on condition that their services prior to 1987 will be foregone by them."*

It is not the case of the petitioners that the grant of extension in favour of those employees including the petitioner in Ext.P14 is illegal. What the petitioners are claiming is the extension of the very same benefit to them. In considering the said claim, certainly the question that must be answered is whether the contention of the respondent that those employees, namely those covered by the understanding referred to in Ext.P14 stand on a different footing, in view of the facts. The further question that would arise is whether in the light of the statutory provision

contained in Rule 183, the petitioners can ask this Court in proceedings under Article 226 of the Constitution to overlook the statutory injunction and allow them to continue beyond the age of fiftyeight.

7. I am of the view that the contention based on discrimination must necessarily fail. It is not in dispute that none of the petitioners were drawn from the Thiruvananthapuram Union. They were all appointed in the Dairy Development Department or in the Board or after the Board came into being. The benefit of extension beyond fiftyeight years is vouch-safed only in favour of the category of employees already referred to. Can it be said that they form a homogeneous group along with the other workmen, including the petitioners ? I would think it not, for the simple reason that it is impossible, having regard to the background in which they were appointed and the understanding between the parties. It is clear that those employees who were permitted to remain upto sixty years, had to forego their past service in the

Thiruvananthapuram Union. It is pointed out that the duty period is not even counted for the purpose of Gratuity. It is impossible to even compare the case of the petitioners with those employees because the petitioners have, admittedly, not suffered any such handicap. Therefore, I would think that in the circumstances of this case, it cannot be urged that there is discrimination practised. It is to be noted that there is no case that any one situated identical with the petitioners has been allowed to continue till the age of sixty. I would, therefore, think that the case of discrimination must fail.

8. No doubt, under Ext.P7 standing order the retirement age is certified as 58 years. An absolute discretion was available to the management. At the same time, undoubtedly, Rule 183 held the field even as on the date of Ext.P7. It is to be noted that the retirement age fixed in the Rule and in Ext.P7 is one and the same. Of course, under Ext.P7, an absolute discretion is granted. Petitioners did not seek to challenge the extension of service granted to the employees as illegal.

Therefore, the question arise whether the petitioners can claim the benefit of extension upto sixty years. I have already found that there is no case of discrimination established. If that is so, at best, the petitioners can lay a claim for the discretion mentioned in their favour. It is not in dispute that the petitioners were all employees of a Co-operative Society. The statutory prohibition is unambiguous in Rule 183 that no employee of the Co-Operative Society shall be entitled to continue beyond fiftyeight years of age. Couching of a statutory provision in a negative form is a substantial indication that the word is mandatory. It is clear that beyond fiftyeight years, no employee can have a right. If that is so, the petitioners do not have any legal right to continue beyond fiftyeight years of age. As I have already found that it is not the case of the petitioners that the extension granted to those employees of the Thiruvananthapuram Union is illegal. But, when the petitioners seek relief under Article 226 of the Constitution, it is for them to make out a case. The matter boils down only to the right of the

petitioners to continue till sixty years. I am afraid that the matter can be decided only against the petitioners under Rule 183 of the Co-Operative Societies Rules. Even the claim for exercise of discretion would not be maintainable as this Court cannot direct discretion to be exercised contrary to law.

9. The question arises further, in fact, is as to whether the petitioners are workmen of the fourth respondent Federation or the Union. It is to be noted that the documents produced by petitioners as Exts.P16 to P26 on which reliance was placed by learned counsel would not, in my view, conclusively establish that they are employees of the Federation. Ext.P16, in fact, refers to the Federation and the three Regional Unions. It is undisputable that the three Unions including the Union in question are separate Co-Operative Societies registered under the Co-Operative Societies Act. It is clear, therefore, that they are separate and distinct legal entities. In fact, a perusal of Ext.P22 relied on by the petitioners at page 23 of the Reply Affidavit, makes it clear that it is ordered that the employees

who have been transferred to the Union will be treated as employees of that Union for all purposes. The Union has Ext.R4(c) standing order certified. No doubt, learned counsel for petitioners would point out that it was decided that the standing order certified for the Federation should be the same as the standing order for the Union. But, that is apparently only to ensure fairness and that would not make them workmen of the Federation. The documents otherwise produced by the petitioners relate to the period apparently before the transfer. No material is produced before this Court to show that even after the transfer they were treated as the workmen of the Federation. Having regard to the fact that Thiruvananthapuram Union is separately registered under the Co-operative Societies Act as a separate Co-operative Society and the admitted fact that all the petitioners have been transferred to the Union and they are governed by Ext.R4(c) standing order, I am of the view that the petitioners must be treated as employees of the Union.

10. Learned counsel for petitioners, no doubt, contended

that the petitioners may be directed to be paid pension. He would submit that in the light of the stand taken by the learned counsel for respondents 4 and 6, petitioners may be declared to be entitled for pension. The question relating to pension is not a subject matter of these Writ Petitions. Shri K. Anand would submit that it is not a pensionable service and it is for the petitioners to approach the competent authority with a claim for pension. It may not be open to me to decide that question here. No doubt, the additional sixth respondent is undoubtedly a Co-Operative Society.

11. I find that there is no merit in the Writ Petitions and the Writ Petitions are only to be dismissed. Learned counsel for petitioners, Shri Elvin Peter would then submit that on the strength of the interim orders, the petitioners continued to work and they may be paid wages for the period they actually worked under the interim orders of this Court.

12. Learned standing counsel sought and got instructions and submits that the additional sixth respondent will pay the

wages to the petitioners at the rate applicable to entry level post in the same category and no allowance can be paid as the temporary hands posted by the additional sixth respondent are eligible only for wages and no allowances are paid to them. In such circumstances, while rejecting the claim of the petitioners for retaining them beyond fiftyeight years of age, there will be a direction to additional sixth respondent Union, to pay to the petitioners the wages payable to persons appointed at the entry level post in the same category and the HRA also. The amounts shall be paid to the petitioners within a period of one month from the date of receipt of a copy of this Judgment.

Subject to the above direction, the Writ Petitions are dismissed.

**K. M. JOSEPH, JUDGE**

kbk.